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Attorney for Defendant

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2009 MAR 18 PM 3:03 ✓

JEANNE HICKS, CLERK

BY: Stephen M. Sears

***In the Superior Court
In and for the County of Yavapai, State of Arizona***

STATE OF ARIZONA,

Plaintiff,

vs.

STEVEN DEMOCKER

Defendant.

Case No. CR 2008- 1339

DIVISION 6

**DEFENDANT'S POSITION
REGARDING ATTORNEY-
CLIENT PRIVILEGE**

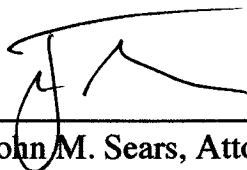
Defendant, STEVEN DEMOCKER, by his counsel undersigned, hereby responds to the Court's invitation to express a position with respect to whether any attorney-client privilege remains after the death of Carol Kennedy with respect to her divorce files. As the Court knows, the State has issued a Subpoena *Duces Tecum* for the files and records of Attorney Robert Fruge, who represented Ms Kennedy in the divorce proceeding involving this Defendant.

It is clear in Arizona that attorney-client privilege does not end with the death of the client. State v. Macumber, 112 Ariz. 569 (1976). That being the case, the privilege is now held by Katie DeMocker in her capacity as Personal Representative of the estate of her late mother, Carol Kennedy. Attached hereto is a copy of a letter from Ms DeMocker to Mr. Fruge asserting the attorney-client privilege at least until she has an opportunity with her attorney to review the file and all of its contents.

Accordingly, Defendant respectfully suggests that the Court decline to sign the order presented by the State authorizing the release of the file pursuant to subpoena.

DATED this 18th day of March, 2009.

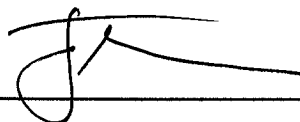
LAW OFFICES OF JOHN M. SEARS, P.C.

By: 
John M. Sears, Attorney for Defendant

Copy of the foregoing hand delivered this
18th day of March, 2009 to:

Honorable Thomas B. Lindberg
Judge of the Yavapai County Superior Court
Division 6
Yavapai County Courthouse
Prescott, AZ

Mark Ainley
Yavapai Deputy County Attorney
Yavapai County Courthouse
Prescott, AZ

By: 

Katherine Democker

March 13, 2009

Robert Fruge
Attorney at Law
3619 Crossings Drive, Suite A
Prescott, Arizona 86305

Re: Estate of Carol Kennedy

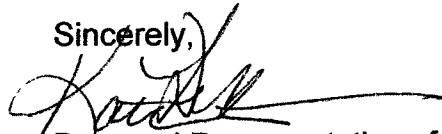
Dear Mr. Fruge:

As you may be aware, I have been appointed Personal Representative of the Estate of Caroline Kennedy. Although I have not personally reviewed the request, I understand that there may be a written request from attorneys to review my mother's divorce file, which is in your possession.

My attorney indicates to me that I, in my capacity as Personal Representative, should be able to assert privacy rights and the attorney client privilege on behalf of my deceased mother, concerning your file. To that extent, I do not want to waive any privilege I may have with regard to the file, and all its contents, until I have had an opportunity to review it. Upon review, you and I can discuss what, if any, portions of the file should be released to the attorneys requesting it.

If the foregoing plan is acceptable to you, please contact my attorney, Christopher Kottke, at your convenience, so he and I may establish a mutually convenient time to attend your office to review the file. I look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Democker", with a long horizontal flourish extending to the right.

Personal Representative of the
Estate of Caroline Kennedy

cc: Mr. John Sears, Esq.